

AMENDED IN SENATE APRIL 7, 2003

SENATE BILL

No. 1062

**Introduced by Committee on Revenue and Taxation (Senators
Cedillo (Chair), Alpert, Bowen, and Burton)**

February 27, 2003

An act to amend Sections ~~63.1~~, 69.5, 75.31, 155, 194, 218, 423, 439.2, 534, 1609.5, and 1841 of, and to repeal Sections 75.30, 401.9, 5098, and 5098.5 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1062, as amended, Committee on Revenue and Taxation. Property taxation.

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. ~~The California Constitution also excludes certain transfers from classification as a "purchase" or "change in ownership." Among these exclusions, the California Constitution excludes from classification as a "purchase" or "change in ownership" the purchase or transfer of the principal residence of the transferor, or the purchase or transfer of the first \$1,000,000 of all other real property, in the case of a purchase or transfer between parents and their children, or grandparents and their grandchildren if "all of the parents" of that grandchild are deceased at the time of the transfer.~~

~~This bill would specify, for purposes of a grandparent to grandchild transfer, that “all of the parents” includes only the natural or adoptive parents of that grandchild, as provided.~~

~~(2)~~ Existing property tax law permits persons over 55 years of age and persons who are severely and permanently disabled, as specified, to transfer, under certain conditions, the property tax base year value of their home to a replacement home. Existing law requires a taxpayer to file a claim for such a transfer of a property tax base year value within 3 years of acquiring the replacement dwelling.

This bill would authorize a taxpayer that qualifies for a transfer of a property tax base year value, but who fails to file a timely claim for such a transfer, to file a late claim. This bill would preclude any cancellation of taxes or refunds of taxes for those years during which a taxpayer had qualified for a transfer of a property tax base year value, but had failed to file a timely claim, as provided. By requiring local tax officials to process additional transfer applications, this bill would impose a state-mandated local program.

~~(3)~~

(2) Existing property tax law provides for supplemental and escape assessments to be made on property outside the regular assessment period and requires that certain notices, in a form prescribed by the State Board of Equalization, of those assessments be given to assessees.

This bill would require that the form of these notices be approved, rather than prescribed, by the State Board of Equalization.

~~(4)~~

(3) Existing law requires a county assessor who determines that a change in ownership or the completion of new construction has occurred to place a notice of a pending supplemental billing on the roll being prepared and to notify the county auditor, who is required to place a notation on the current roll, or on a separate document accompanying the current roll, that a supplemental billing may be forthcoming.

This bill would repeal this requirement.

~~(5)~~

(4) Existing law requires a party that subpoenas an employee of the State Board of Equalization to pay the board \$200 for each day the employee is required to attend the proceedings to which the subpoena pertains to offset the travel expenses, salary, and other compensation of the employee during the time he or she is subject to the subpoena.

This bill would require a party that subpoenas an employee of the State Board of Equalization to fully reimburse the board for that



employee's travel expenses, salary, and other compensation during the period that the employee is subject to the subpoena, as provided.

~~(6)–~~

(5) Existing law authorizes a taxpayer in an eligible county, as defined, to defer the payment of property taxes on real property that has sustained “substantial disaster damage,” which term is generally defined as real property and any manufactured home that has received or is eligible for the ~~homeowner's~~ *homeowners'* exemption, as provided, and that has sustained damage amounting to at least 10% of its fair market value or \$5,000, whichever is less.

This bill would change that \$5,000 limit to \$10,000.

~~(7)–~~

(6) Existing property tax law provides, pursuant to a specified provision of the California Constitution, for a ~~homeowner's~~ *homeowners'* property tax exemption in the amount of \$7,000 of the full value of a “dwelling,” as defined.

This bill would correct an erroneous cross-reference in this provision.

~~(8)–~~

(7) Existing law requires that the assessed value of property that is enforceably restricted, as specified, be determined by using a specified capitalization of income method of valuation. Existing law requires, as a component of this method of valuation, the State Board of Equalization to announce, by September 1 of each assessment year, the interest rates of specified federal security instruments, as provided.

This bill would require the board to announce these interest rates by October 1 of each assessment year.

~~(9)–~~

(8) Existing law authorizes a refund, with interest, of property taxes paid on the unsecured roll for the 1978–79 fiscal year if a California appellate court makes a specified determination.

This bill would repeal that authorization.

~~(10)–~~

(9) This bill would also make various other technical changes to property tax law to correct various cross-references, to conform various provisions to related existing law, and to repeal obsolete provisions.

~~(11)–~~

(10) Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property

tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

~~(12)–~~

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. ~~Section 63.1 of the Revenue and Taxation Code~~
- 2 ~~is amended to read:~~
- 3 ~~63.1. (a) Notwithstanding any other provision of this chapter,~~
- 4 ~~a change in ownership shall not include the following purchases~~
- 5 ~~or transfers for which a claim is filed pursuant to this section:~~
- 6 ~~(1) The purchase or transfer of real property which is the~~
- 7 ~~principal residence of an eligible transferor in the case of a~~
- 8 ~~purchase or transfer between parents and their children.~~
- 9 ~~(2) The purchase or transfer of the first one million dollars~~
- 10 ~~(\$1,000,000) of full cash value of all other real property of an~~
- 11 ~~eligible transferor in the case of a purchase or transfer between~~
- 12 ~~parents and their children.~~
- 13 ~~(3) (A) Subject to subparagraph (B), the purchase or transfer~~
- 14 ~~of real property described in paragraphs (1) and (2) of subdivision~~
- 15 ~~(a) occurring on or after March 27, 1996, between grandparents~~
- 16 ~~and their grandchild or grandchildren, if all of the parents of that~~
- 17 ~~grandchild or those grandchildren, who qualify as the children of~~



~~the grandparents, are deceased as of the date of purchase or transfer.~~

~~(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1) of subdivision (a). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (2) of subdivision (a) and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence shall be included in applying, for purposes of paragraph (2) of subdivision (a), the one million dollar (\$1,000,000) full cash value limit specified in paragraph (2) of subdivision (a).~~

~~(b) (1) For purposes of paragraph (1) of subdivision (a), “principal residence” means a dwelling for which a homeowners’ exemption or a disabled veterans’ residence exemption has been granted in the name of the eligible transferor. “Principal residence” includes only that portion of the land underlying the principal residence that consists of an area of reasonable size that is used as a site for the residence.~~

~~(2) For purposes of paragraph (2) of subdivision (a), the one million dollar (\$1,000,000) exclusion shall apply separately to each eligible transferor with respect to all purchases by and transfers to eligible transferees on and after November 6, 1986, of real property, other than the principal residence, of that eligible transferor. The exclusion shall not apply to any property in which the eligible transferor’s interest was received through a transfer, or transfers, excluded from change in ownership by the provisions of either subdivision (f) of Section 62 or subdivision (b) of Section 65, unless the transferor qualifies as an original transferor under subdivision (b) of Section 65. In the case of any purchase or transfer subject to this paragraph involving two or more eligible transferors, the transferors may elect to combine their separate one million dollar (\$1,000,000) exclusions and, upon making that election, the combined amount of their separate exclusions shall apply to any property jointly sold or transferred by the electing transferors, provided that in no case shall the amount of full cash value of real property of any one eligible transferor excluded under~~

~~this election exceed the amount of the transferor's separate unused exclusion on the date of the joint sale or transfer.~~

~~(c) As used in this section:~~

~~(1) "Purchase or transfer between parents and their children" means either a transfer from a parent or parents to a child or children of the parent or parents or a transfer from a child or children to a parent or parents of the child or children. For purposes of this section, the date of any transfer between parents and their children under a will or intestate succession shall be the date of the decedent's death, if the decedent died on or after November 6, 1986.~~

~~(2) "Purchase or transfer of real property between grandparents and their grandchild or grandchildren" means a purchase or transfer on or after March 27, 1996, from a grandparent or grandparents to a grandchild or grandchildren if all of the parents of that grandchild or those grandchildren who qualify as the children of the grandparents are deceased as of the date of the transfer. For the purpose of a grandparent-grandchild transfer, in determining whether "all of the parents" of that grandchild are deceased, the parents of that grandchild includes only the natural parent or parents of that grandchild. If the grandchild was adopted, then "all of the parents" includes only the adopted parent or parents of that grandchild, provided that the grandchild was adopted by the parent or parents, pursuant to statute, prior to reaching the age of 18 years. For purposes of this section, the date of any transfer between grandparents and their grandchildren under a will or by intestate succession shall be the date of the decedent's death.~~

~~(3) "Children" means any of the following:~~

~~(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.~~

~~(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.~~

1 ~~(C) Any son-in-law or daughter-in-law of the parent or parents.~~
2 ~~For the purposes of this paragraph, the relationship of parent and~~
3 ~~son-in-law or daughter-in-law shall be deemed to exist until the~~
4 ~~marriage on which the relationship is based is terminated by~~
5 ~~divorce, or, if the relationship is terminated by death, until the~~
6 ~~remarriage of the surviving son-in-law or daughter-in-law.~~

7 ~~(D) Any child adopted by the parent or parents pursuant to~~
8 ~~statute, other than an individual adopted after reaching the age of~~
9 ~~18 years.~~

10 ~~(4) “Grandchild” or “grandchildren” means any child or~~
11 ~~children of the child or children of the grandparent or~~
12 ~~grandparents.~~

13 ~~(5) “Full cash value” means full cash value, as defined in~~
14 ~~Section 2 of Article XIII A of the California Constitution and~~
15 ~~Section 110.1, with any adjustments authorized by those sections;~~
16 ~~and the full value of any new construction in progress, determined~~
17 ~~as of the date immediately prior to the date of a purchase by or~~
18 ~~transfer to an eligible transferee of real property subject to this~~
19 ~~section.~~

20 ~~(6) “Eligible transferor” means a grandparent, parent, or child~~
21 ~~of an eligible transferee.~~

22 ~~(7) “Eligible transferee” means a parent, child, or grandchild~~
23 ~~of an eligible transferor.~~

24 ~~(8) “Real property” means real property as defined in Section~~
25 ~~104. Real property does not include any interest in a legal entity.~~

26 ~~(9) “Transfer” includes, and is not limited to, any transfer of~~
27 ~~the present beneficial ownership of property from an eligible~~
28 ~~transferor to an eligible transferee through the medium of an inter~~
29 ~~vivos or testamentary trust.~~

30 ~~(10) “Social security number” also includes a taxpayer~~
31 ~~identification number issued by the Internal Revenue Service in~~
32 ~~the case in which the taxpayer is a foreign national who cannot~~
33 ~~obtain a social security number.~~

34 ~~(d) (1) The exclusions provided for in subdivision (a) shall not~~
35 ~~be allowed unless the eligible transferee, the transferee’s legal~~
36 ~~representative, or the executor or administrator of the transferee’s~~
37 ~~estate files a claim with the assessor for the exclusion sought and~~
38 ~~furnishes to the assessor each of the following:~~

39 ~~(A) A written certification by the transferee, the transferee’s~~
40 ~~legal representative, or the executor or administrator of the~~

transferee's estate, signed and made under penalty of perjury that the transferee is a grandparent, parent, child, or grandchild of the transferor and that the transferor is his or her parent, child, or grandparent. In the case of a grandparent-grandchild transfer, the written certification shall also include a certification that all the parents of the grandchild or grandchildren who qualify as children of the grandparents were deceased as of the date of the purchase or transfer and that the grandchild or grandchildren did or did not receive a principal residence excludable under paragraph (1) of subdivision (a) from the deceased parents, and that the grandchild or grandchildren did or did not receive real property other than a principal residence excludable under paragraph (2) of subdivision (a) from the deceased parents. The claimant shall provide legal substantiation of any matter certified pursuant to this subparagraph at the request of the county assessor.

(B) A written certification by the transferor, the transferor's legal representative, or the executor or administrator of the transferor's estate, signed and made under penalty of perjury that the transferor is a grandparent, parent, or child of the transferee and that the transferor is seeking the exclusion under this section and will not file a claim to transfer the base year value of the property under Section 69.5.

(C) A written certification shall also include either or both of the following:

(i) If the purchase or transfer of real property includes the purchase or transfer of residential real property, a certification that the residential real property is or is not the transferor's principal residence.

(ii) If the purchase or transfer of real property includes the purchase or transfer of real property other than the transferor's principal residence, a certification that other real property of the transferor that is subject to this section has or has not been previously sold or transferred to an eligible transferee, the total amount of full cash value, as defined in subdivision (c), of any real property subject to this section that has been previously sold or transferred by that transferor to eligible transferees, the location of that real property, the social security number of each eligible transferor, and the names of the eligible transferees of that property.

1 ~~(D) If there are multiple transferees, the certification and~~
2 ~~signature may be made by any one of the transferees, if both of the~~
3 ~~following conditions are met:~~

4 ~~(i) The transferee has actual knowledge that, and the~~
5 ~~certification signed by the transferee states that, all of the~~
6 ~~transferees are eligible transferees within the meaning of this~~
7 ~~section.~~

8 ~~(ii) The certification is signed by the transferee as a true~~
9 ~~statement made under penalty of perjury.~~

10 ~~(2) If the full cash value of the real property purchased by or~~
11 ~~transferred to the transferee exceeds the permissible exclusion of~~
12 ~~the transferor or the combined permissible exclusion of the~~
13 ~~transferors, in the case of a purchase or transfer from two or more~~
14 ~~joint transferors, taking into account any previous purchases by or~~
15 ~~transfers to an eligible transferee from the same transferor or~~
16 ~~transferors, the transferee shall specify in his or her claim the~~
17 ~~amount and the allocation of the exclusion he or she is seeking.~~
18 ~~Within any appraisal unit, as determined in accordance with~~
19 ~~subdivision (d) of Section 51 by the assessor of the county in which~~
20 ~~the real property is located, the exclusion shall be applied only on~~
21 ~~a pro rata basis, however, and shall not be applied to a selected~~
22 ~~portion or portions of the appraisal unit.~~

23 ~~(e) (1) The State Board of Equalization shall design the form~~
24 ~~for claiming eligibility. Except as provided in paragraph (2), any~~
25 ~~claim under this section shall be filed:~~

26 ~~(A) For transfers of real property between parents and their~~
27 ~~children occurring prior to September 30, 1990, within three years~~
28 ~~after the date of the purchase or transfer of real property for which~~
29 ~~the claim is filed.~~

30 ~~(B) For transfers of real property between parents and their~~
31 ~~children occurring on or after September 30, 1990, and for the~~
32 ~~purchase or transfer of real property between grandparents and~~
33 ~~their grandchildren occurring on or after March 27, 1996, within~~
34 ~~three years after the date of the purchase or transfer of real property~~
35 ~~for which the claim is filed, or prior to transfer of the real property~~
36 ~~to a third party, whichever is earlier.~~

37 ~~(C) Notwithstanding subparagraphs (A) and (B), a claim shall~~
38 ~~be deemed to be timely filed if it is filed within six months after~~
39 ~~the date of mailing of a notice of supplemental or escape~~

1 assessment, issued as a result of the purchase or transfer of real
2 property for which the claim is filed.

3 (2) In the case in which the real property subject to purchase or
4 transfer has not been transferred to a third party, a claim for
5 exclusion under this section that is filed subsequent to the
6 expiration of the filing periods set forth in paragraph (1) shall be
7 considered by the assessor, subject to all of the following
8 conditions:

9 (A) Any exclusion granted pursuant to that claim shall apply
10 commencing with the lien date of the assessment year in which the
11 claim is filed.

12 (B) Under any exclusion granted pursuant to that claim, the
13 adjusted full cash value of the subject real property in the
14 assessment year described in subparagraph (A) shall be the
15 adjusted base year value of the subject real property in the
16 assessment year in which the excluded purchase or transfer took
17 place, factored to the assessment year described in subparagraph
18 (A) for both of the following:

19 (i) Inflation as annually determined in accordance with
20 paragraph (1) of subdivision (a) of Section 51.

21 (ii) Any subsequent new construction occurring with respect to
22 the subject real property.

23 (3) (A) Unless otherwise expressly provided, the provisions of
24 this subdivision shall apply to any purchase or transfer of real
25 property that occurred on or after November 6, 1986.

26 (B) Paragraph (2) shall apply to purchases or transfers between
27 parents and their children that occurred on or after November 6,
28 1986, and to purchases or transfers between grandparents and their
29 grandchildren that occurred on or after March 27, 1996.

30 (4) For purposes of this subdivision, a transfer of real property
31 to a parent or child of the transferor shall not be considered a
32 transfer to a third party.

33 (f) The assessor shall report quarterly to the State Board of
34 Equalization all purchases or transfers, other than purchases or
35 transfers involving a principal residence, for which a claim for
36 exclusion is made pursuant to subdivision (d). Each report shall
37 contain the assessor's parcel number for each parcel for which the
38 exclusion is claimed, the amount of each exclusion claimed, the
39 social security number of each eligible transferor, and any other
40 information the board shall require in order to monitor the one

~~million dollar (\$1,000,000) limitation in paragraph (2) of subdivision (a).~~

~~(g) This section shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree. Nothing in this subdivision shall be construed as conflicting with paragraph (1) of subdivision (c) or the general principle that transfers by reason of death occur at the time of death.~~

~~(h) (1) Except as provided in paragraph (2), this section shall apply to purchases and transfers of real property completed on or after November 6, 1986, and shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.~~

~~(2) This section shall apply to purchases or transfers of real property between grandparents and their grandchildren occurring on or after March 27, 1996, and, with respect to purchases or transfers of real property between grandparents and their grandchildren, shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.~~

~~SEC. 2.~~—Section 69.5 of the Revenue and Taxation Code is amended to read:

69.5. (a) (1) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county, this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts

1 an ordinance making the provisions of paragraph (1) also
2 applicable to situations in which replacement dwellings are
3 located in that county and the original properties are located in
4 another county within this state. The authorization contained in
5 this paragraph shall be applicable in a county only if the ordinance
6 adopted by the board of supervisors complies with all of the
7 following requirements:

8 (A) It is adopted only after consultation between the board of
9 supervisors and all other local affected agencies within the
10 county's boundaries.

11 (B) It requires that all claims for transfers of base year value
12 from original property located in another county be granted if the
13 claims meet the applicable requirements of both subdivision (a) of
14 Section 2 of Article XIII A of the California Constitution and this
15 section.

16 (C) It requires that all base year valuations of original property
17 located in another county and determined by its assessor be
18 accepted in connection with the granting of claims for transfers of
19 base year value.

20 (D) It provides that its provisions are operative for a period of
21 not less than five years.

22 (E) The ordinance specifies the date on and after which its
23 provisions shall be applicable. However, the date specified shall
24 not be earlier than November 9, 1988. The specified applicable
25 date may be a date earlier than the date the county adopts the
26 ordinance.

27 (b) In addition to meeting the requirements of subdivision (a),
28 any person claiming the property tax relief provided by this section
29 shall be eligible for that relief only if the following conditions are
30 met:

31 (1) The claimant is an owner and a resident of the original
32 property either at the time of its sale, or at the time when the
33 original property was substantially damaged or destroyed by
34 misfortune or calamity, or within two years of the purchase or new
35 construction of the replacement dwelling.

36 (2) The original property is eligible for the homeowner's
37 exemption, as the result of the claimant's ownership and
38 occupation of the property as his or her principal residence, either
39 at the time of its sale, or at the time when the original property was
40 substantially damaged or destroyed by misfortune or calamity, or

1 within two years of the purchase or new construction of the
2 replacement dwelling.

3 (3) At the time of the sale of the original property, the claimant
4 or the claimant's spouse who resides with the claimant is at least
5 55 years of age, or is severely and permanently disabled.

6 (4) At the time of claiming the property tax relief provided by
7 subdivision (a), the claimant is an owner of a replacement dwelling
8 and occupies it as his or her principal place of residence and, as a
9 result thereof, the property is currently eligible for the
10 homeowner's exemption or would be eligible for the exemption
11 except that the property is already receiving the exemption
12 because of an exemption claim filed by the previous owner.

13 (5) The original property of the claimant is sold by him or her
14 within two years of the purchase or new construction of the
15 replacement dwelling. For purposes of this paragraph, the
16 purchase or new construction of the replacement dwelling
17 includes the purchase of that portion of land on which the
18 replacement building, structure, or other shelter constituting a
19 place of abode of the claimant will be situated and that, pursuant
20 to paragraph (3) of subdivision (g), constitutes a part of the
21 replacement dwelling.

22 (6) The replacement dwelling, including that portion of land on
23 which it is situated that is specified in paragraph (5), is located
24 entirely within the same county as the claimant's original property.

25 (7) The claimant has not previously been granted, as a
26 claimant, the property tax relief provided by this section, except
27 that this paragraph shall not apply to any person who becomes
28 severely and permanently disabled subsequent to being granted, as
29 a claimant, the property tax relief provided by this section for any
30 person over the age of 55 years. In order to prevent duplication of
31 claims under this section within this state, county assessors shall
32 report quarterly to the State Board of Equalization that
33 information from claims filed in accordance with subdivision (f)
34 and from county records as is specified by the board necessary to
35 identify fully all claims under this section allowed by assessors and
36 all claimants who have thereby received relief. The board may
37 specify that the information include all or a part of the names and
38 social security numbers of claimants and their spouses and the
39 identity and location of the replacement dwelling to which the
40 claim applies. The information may be required in the form of data

1 processing media or other media and in a format that is compatible
2 with the recordkeeping processes of the counties and the auditing
3 procedures of the state.

4 (c) The property tax relief provided by this section shall be
5 available if the original property or the replacement dwelling, or
6 both, of the claimant, includes, but is not limited to, either of the
7 following:

8 (1) A unit or lot within a cooperative housing corporation, a
9 community apartment project, a condominium project, or a
10 planned unit development. If the unit or lot constitutes the original
11 property of the claimant, the assessor shall transfer to the
12 claimant's replacement dwelling only the base year value of the
13 claimant's unit or lot and his or her share in any common area
14 reserved as an appurtenance of that unit or lot. If the unit or lot
15 constitutes the replacement dwelling of the claimant, the assessor
16 shall transfer the base year value of the claimant's original
17 property only to the unit or lot of the claimant and any share of the
18 claimant in any common area reserved as an appurtenance of that
19 unit or lot.

20 (2) A manufactured home or a manufactured home and any
21 land owned by the claimant on which the manufactured home is
22 situated. For purposes of this paragraph, "land owned by the
23 claimant" includes a pro rata interest in a resident-owned
24 mobilehome park that is assessed pursuant to subdivision (b) of
25 Section 62.1.

26 (A) If the manufactured home or the manufactured home and
27 the land on which it is situated constitutes the claimant's original
28 property, the assessor shall transfer to the claimant's replacement
29 dwelling either the base year value of the manufactured home or
30 the base year value of the manufactured home and the land on
31 which it is situated, as appropriate. If the manufactured home
32 dwelling that constitutes the original property of the claimant
33 includes an interest in a resident-owned mobilehome park, the
34 assessor shall transfer to the claimant's replacement dwelling the
35 base year value of the claimant's manufactured home and his or her
36 pro rata portion of the real property of the park. No transfer of base
37 year value shall be made by the assessor of that portion of land that
38 does not constitute a part of the original property, as provided in
39 paragraph (4) of subdivision (g).



(B) If the manufactured home or the manufactured home and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the manufactured home or the manufactured home and the land on which it is situated, as appropriate. If the manufactured home dwelling that constitutes the replacement dwelling of the claimant includes an interest in a resident-owned mobilehome park, the assessor shall transfer the base year value of the claimant's original property to the manufactured home of the claimant and his or her pro rata portion of the park. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision shall be subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section shall be available to a claimant who is the coowner of original property, as a joint tenant, a tenant in common, or a community property owner, subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the claimant shall be eligible under this section whether or not any or all of the remaining coowners would otherwise be eligible claimants.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be an eligible claimant, only one coowner shall be eligible under this section. These coowners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained the age of 55 years, or is severely and permanently disabled, shall be eligible under this section. If both spouses are over 55 years of age, they shall determine by mutual agreement which one of them is eligible.

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) shall

1 only apply to coowners who occupied the same dwelling unit
2 within the original property at the time specified in paragraph (2)
3 of subdivision (b).

4 (e) Upon the sale of original property, the assessor shall
5 determine a new base year value for that property in accordance
6 with subdivision (a) of Section 2 of Article XIII A of the
7 California Constitution and Section 110.1, whether or not a
8 replacement dwelling is subsequently purchased or newly
9 constructed by the former owner or owners of the original
10 property.

11 This section shall not apply unless the transfer of the original
12 property is a change in ownership that either (1) subjects that
13 property to reappraisal at its current fair market value in
14 accordance with Section 110.1 or 5803 or (2) results in a base year
15 value determined in accordance with this section, Section 69, or
16 Section 69.3 because the property qualifies under this section,
17 Section 69, or Section 69.3 as a replacement dwelling or property.

18 (f) A claimant shall not be eligible for the property tax relief
19 provided by this section unless the claimant provides to the
20 assessor, on a form that the assessor shall make available upon
21 request, the following information:

22 (1) The name and social security number of each claimant and
23 of any spouse of the claimant who was a record owner of the
24 original property at the time of its sale or is a record owner of the
25 replacement dwelling.

26 (2) Proof that the claimant or the claimant's spouse who resided
27 on the original property with the claimant was, at the time of its
28 sale, at least 55 years of age, or severely and permanently disabled.
29 Proof of severe and permanent disability shall be considered a
30 certification, signed by a licensed physician and surgeon of
31 appropriate specialty, attesting to the claimant's severely and
32 permanently disabled condition. In the absence of available proof
33 that a person is over 55 years of age, the claimant shall certify
34 under penalty of perjury that the age requirement is met. In the case
35 of a severely and permanently disabled claimant either of the
36 following shall be submitted:

37 (A) A certification, signed by a licensed physician or surgeon
38 of appropriate specialty that identifies specific reasons why the
39 disability necessitates a move to the replacement dwelling and the
40 disability-related requirements, including any locational



requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(B) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(3) The address and, if known, the assessor's parcel number of the original property.

(4) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(5) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

The State Board of Equalization shall design the form for claiming eligibility.

Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed, subject to subdivision (k), (m), or (n).

(g) For purposes of this section:

(1) "Person over the age of 55 years" means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of original property.

(2) "Base year value of the original property" means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant, or in the case where the original property has been substantially damaged or destroyed by misfortune or calamity and the owner does not

1 rebuild on the original property, determined as of the date
2 immediately prior to the misfortune or calamity.

3 If the replacement dwelling is purchased or newly constructed
4 after the transfer of the original property, “base year value of the
5 original property” also includes any inflation factor adjustments
6 permitted by subdivision (f) of Section 110.1 for the period
7 subsequent to the sale of the original property. The base year or
8 years used to compute the “base year value of the original
9 property” shall be deemed to be the base year or years of any
10 property to which that base year value is transferred pursuant to
11 this section.

12 (3) “Replacement dwelling” means a building, structure, or
13 other shelter constituting a place of abode, whether real property
14 or personal property, that is owned and occupied by a claimant as
15 his or her principal place of residence, and any land owned by the
16 claimant on which the building, structure, or other shelter is
17 situated. For purposes of this paragraph, land constituting a part of
18 a replacement dwelling includes only that area of reasonable size
19 that is used as a site for a residence, and “land owned by the
20 claimant” includes land for which the claimant either holds a
21 leasehold interest described in subdivision (c) of Section 61 or a
22 land purchase contract. Each unit of a multiunit dwelling shall be
23 considered a separate replacement dwelling. For purposes of this
24 paragraph, “area of reasonable size that is used as a site for a
25 residence” includes all land if any nonresidential uses of the
26 property are only incidental to the use of the property as a
27 residential site. For purposes of this paragraph, “land owned by
28 the claimant” includes an ownership interest in a resident-owned
29 mobilehome park that is assessed pursuant to subdivision (b) of
30 Section 62.1.

31 (4) “Original property” means a building, structure, or other
32 shelter constituting a place of abode, whether real property or
33 personal property, that is owned and occupied by a claimant as his
34 or her principal place of residence, and any land owned by the
35 claimant on which the building, structure, or other shelter is
36 situated. For purposes of this paragraph, land constituting a part of
37 original property includes only that area of reasonable size that is
38 used as a site for a residence, and “land owned by the claimant”
39 includes land for which the claimant either holds a leasehold
40 interest described in subdivision (c) of Section 61 or a land

purchase contract. Each unit of a multiunit dwelling shall be considered a separate original property. For purposes of this paragraph, “area of reasonable size that is used as a site for a residence” includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, “land owned by the claimant” includes an ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(5) “Equal or lesser value” means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

(A) One hundred percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property.

(B) One hundred and five percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property.

(C) One hundred and ten percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the second year following the date of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the “replacement dwelling is purchased or newly constructed” is the date of purchase or the date of completion of construction, whichever is later.

(6) “Full cash value of the replacement dwelling” means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) “Full cash value of the original property” means, either:

(A) Its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article

1 XIII A and subdivision (f) of Section 110.1 for the period from the
2 date of its sale by the claimant to the date on which the replacement
3 property was purchased or new construction was completed.

4 (B) In the case where the original property has been
5 substantially damaged or destroyed by misfortune or calamity and
6 the owner does not rebuild on the original property, its full cash
7 value, as determined in accordance with Section 110, immediately
8 prior to its substantial damage or destruction by misfortune or
9 calamity, as determined by the county assessor of the county in
10 which the property is located, without the application of
11 subdivision (h) of Section 2 of Article XIII A of the California
12 Constitution, plus the adjustments permitted by subdivision (b) of
13 Section 2 of Article XIII A and subdivision (f) of Section 110.1,
14 for the period from the date of its sale by the claimant to the date
15 on which the replacement property was purchased or new
16 construction was completed.

17 (8) “Sale” means any change in ownership of the original
18 property for consideration.

19 (9) “Claimant” means any person claiming the property tax
20 relief provided by this section. If a spouse of that person is a record
21 owner of the replacement dwelling, the spouse is also a claimant
22 for purposes of determining whether in any future claim filed by
23 the spouse under this section the condition of eligibility specified
24 in paragraph (7) of subdivision (b) has been met.

25 (10) “Property that is eligible for the homeowner’s
26 exemption” includes property that is the principal place of
27 residence of its owner and is entitled to exemption pursuant to
28 Section 205.5.

29 (11) “Person” means any individual, but does not include any
30 firm, partnership, association, corporation, company, or other
31 legal entity or organization of any kind.

32 (12) “Severely and permanently disabled” means any person
33 described in subdivision (b) of Section 74.3.

34 (13) For the purposes of this section, property is “substantially
35 damaged or destroyed by misfortune or calamity” if it sustains
36 physical damage amounting to more than 50 percent of its full cash
37 value immediately prior to the misfortune or calamity. Damage
38 includes a diminution in the value of property as a result of
39 restricted access to the property where the restricted access was
40 caused by the misfortune or calamity and is permanent in nature.



(h) (1) Upon the timely filing of a claim, the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes that were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling's new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within 30 days after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, is not more than the full cash value of the original property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), and the assessor shall grant the rescission, if a written notice of rescission is delivered to the office of the assessor as follows:

1 (1) A written notice of rescission signed by the original filing
2 claimant or claimants is delivered to the office of the assessor in
3 which the original claim was filed.

4 (2) (A) Except as otherwise provided in this paragraph, the
5 notice of rescission is delivered to the office of the assessor before
6 the date that the county first issues, as a result of relief granted
7 under this section, a refund check for property taxes imposed upon
8 the replacement dwelling. If granting relief will not result in a
9 refund of property taxes, then the notice shall be delivered before
10 payment is first made of any property taxes, or any portion thereof,
11 imposed upon the replacement dwelling consistent with relief
12 granted under this section. If payment of the taxes is not made, then
13 notice shall be delivered before the first date that those property
14 taxes, or any portion thereof, imposed upon the replacement
15 dwelling, consistent with relief granted under this section, are
16 delinquent.

17 (B) Notwithstanding any other provision in this division, any
18 time the notice of rescission is delivered to the office of the
19 assessor within six years after relief was granted, provided that the
20 replacement property has been vacated as the claimant's principal
21 place of residence within 90 days after the original claim was filed,
22 regardless of whether the property continues to receive the
23 ~~homeowner's~~ *homeowners'* exemption. If the rescission increases
24 the base year value of a property, or the homeowners' exemption
25 has been incorrectly allowed, appropriate escape assessments or
26 supplemental assessments, including interest as provided in
27 Section 506, shall be imposed. The limitations periods for any
28 escape assessments or supplemental assessments shall not
29 commence until July 1 of the assessment year in which the notice
30 of rescission is delivered to the office of the assessor.

31 (3) The notice is accompanied by the payment of a fee as the
32 assessor may require, provided that the fee shall not exceed an
33 amount reasonably related to the estimated cost of processing a
34 rescission claim, including both direct costs and developmental
35 and indirect costs, such as costs for overhead, personnel, supplies,
36 materials, office space, and computers.

37 (j) (1) With respect to the transfer of base year value of original
38 properties to replacement dwellings located in the same county,
39 this section, except as provided in paragraph (3) or (4), shall apply

1 to any replacement dwelling that is purchased or newly
2 constructed on or after November 6, 1986.

3 (2) With respect to the transfer of base year value of original
4 properties to replacement dwellings located in different counties,
5 except as provided in paragraph (4), this section shall apply to any
6 replacement dwelling that is purchased or newly constructed on or
7 after the date specified in accordance with subparagraph (E) of
8 paragraph (2) of subdivision (a) in the ordinance of the county in
9 which the replacement dwelling is located, but shall not apply to
10 any replacement dwelling which was purchased or newly
11 constructed before November 9, 1988.

12 (3) With respect to the transfer of base year value by a severely
13 and permanently disabled person, this section shall apply only to
14 replacement dwellings that are purchased or newly constructed on
15 or after June 6, 1990.

16 (4) The amendments made to subdivision (e) by the act adding
17 this paragraph shall apply only to replacement dwellings under
18 Section 69 that are acquired or newly constructed on or after
19 October 20, 1991, and shall apply commencing with the 1991–92
20 fiscal year.

21 (k) (1) In the case in which a county adopts an ordinance
22 pursuant to paragraph (2) of subdivision (a) that establishes an
23 applicable date which is more than three years prior to the date of
24 adoption of the ordinance, those potential claimants who
25 purchased or constructed replacement dwellings more than three
26 years prior to the date of adoption of the ordinance and who would,
27 therefore, be precluded from filing a timely claim, shall be deemed
28 to have timely filed a claim if the claim is filed within three years
29 after the date that the ordinance is adopted. This paragraph may not
30 be construed as a waiver of any other requirement of this section.

31 (2) In the case in which a county assessor corrects a base year
32 value to reflect a pro rata change in ownership of a resident-owned
33 mobilehome park that occurred between January 1, 1989, and
34 January 1, 2002, pursuant to paragraph (4) of subdivision (b) of
35 Section 62.1, those claimants who purchased or constructed
36 replacement dwellings more than three years prior to the
37 correction and who would, therefore, be precluded from filing a
38 timely claim, shall be deemed to have timely filed a claim if the
39 claim is filed within three years of the date of notice of the
40 correction of the base year value to reflect the pro rata change in

1 ownership. This paragraph may not be construed as a waiver of any
2 other requirement of this section.

3 (3) This subdivision does not apply to a claimant who has
4 transferred his or her replacement dwelling prior to filing a claim.

5 (4) The property tax relief provided by this section, but filed
6 under this subdivision, shall apply prospectively only,
7 commencing with the lien date of the assessment year in which the
8 claim is filed. There shall be no refund or cancellation of taxes
9 prior to the date that the claim is filed.

10 (I) No escape assessment may be levied if a transfer of base year
11 value under this section has been erroneously granted by the
12 assessor pursuant to an expired ordinance authorizing intercounty
13 transfers of base year value.

14 (m) (1) The amendments made to subdivisions (b) and (g) of
15 this section by Chapter 613 of the Statutes of 2001 shall apply:

16 (A) With respect to the transfer of base year value of original
17 properties to replacement dwellings located in the same county, to
18 any replacement dwelling that is purchased or newly constructed
19 on or after November 6, 1986.

20 (B) With respect to the transfer of base year value of original
21 properties to replacement dwellings located in different counties,
22 to any replacement dwelling that is purchased or newly
23 constructed on or after the date specified in accordance with
24 subparagraph (E) of paragraph (2) of subdivision (a) in the
25 ordinance of the county in which the replacement dwelling is
26 located, but not to any replacement dwelling that was purchased
27 or newly constructed before November 9, 1988.

28 (C) With respect to the transfer of base year value by a severely
29 and permanently disabled person, to replacement dwellings that
30 are purchased or newly constructed on or after June 6, 1990.

31 (2) The property tax relief provided by this section in
32 accordance with this subdivision shall apply prospectively only
33 commencing with the lien date of the assessment year in which the
34 claim is filed. There shall be no refund or cancellation of taxes
35 prior to the date that the claim is filed. Notwithstanding
36 subdivision (f), a claim shall be deemed to be timely filed if it is
37 filed within four years after the operative date of the act adding this
38 paragraph.

39 (n) With respect to property to which a transfer of base year
40 value was available, but for which a timely claim was not filed, a

1 transfer of base year value may be granted prospectively under this
2 subdivision.

3 (1) For transfers of base year value that were not timely
4 claimed, any property tax relief applies prospectively only,
5 commencing with the lien date of the assessment year in which the
6 claim is filed. There shall be no refund or cancellation of taxes that
7 accrued prior to the date that the claim is filed.

8 (2) For any claim that was not timely filed prior to January 1,
9 2004, the claimant may refile a claim with the assessor.

10 ~~SEC. 3.—~~

11 ~~SEC. 2.~~ Section 75.30 of the Revenue and Taxation Code is
12 repealed.

13 ~~SEC. 4.—~~

14 ~~SEC. 3.~~ Section 75.31 of the Revenue and Taxation Code is
15 amended to read:

16 75.31. (a) Whenever the assessor has determined a new base
17 year value as provided in Section 75.10, the assessor shall send a
18 notice to the assessee showing the following:

19 (1) The new base year value of the property that has changed
20 ownership, or the new base year value of the completed new
21 construction that shall be added to the existing taxable value of the
22 remainder of the property.

23 (2) The taxable value appearing on the current roll, and if the
24 change in ownership or completion of new construction occurred
25 between January 1 and May 31, the taxable value on the roll being
26 prepared.

27 (3) The date of the change in ownership or completion of new
28 construction.

29 (4) The amount of the supplemental assessments.

30 (5) The exempt amount, if any, on the current roll or the roll
31 being prepared.

32 (6) The date the notice was mailed.

33 (7) A statement that the supplemental assessment was
34 determined in accordance with Article XIII A of the California
35 Constitution that generally requires reappraisal of property
36 whenever a change in ownership occurs or property is newly
37 constructed.

38 (8) Any other information which the board may prescribe.

39 (b) In addition to the information specified in subdivision (a),
40 the notice shall inform the assessee of the procedure for filing a

1 claim for exemption that is to be filed within 30 days of the date
2 of the notice.

3 (c) (1) The notice shall advise the assessee of the right to an
4 informal review and the right to appeal the supplemental
5 assessment, and, unless subject to paragraph (2) or (3), that the
6 appeal shall be filed within 60 days of the date of mailing printed
7 on the notice or the postmark date therefor, whichever is later. For
8 the purposes of equalization proceedings, the supplemental
9 assessment shall be considered an assessment made outside of the
10 regular assessment period as provided in Section 1605.

11 (2) For counties in which the board of supervisors has adopted
12 the provisions of subdivision (c) of Section 1605, and the County
13 of Los Angeles, the notice shall advise the assessee of the right to
14 appeal the supplemental assessment, and that the appeal shall,
15 except as provided in paragraph (3), be filed within 60 days of the
16 date of mailing printed on the tax bill or the postmark date therefor,
17 whichever is later. For the purposes of equalization proceedings,
18 the supplemental assessment shall be considered an assessment
19 made outside of the regular assessment period as provided in
20 Section 1605.

21 (3) (A) If the taxpayer does not receive a notice in accordance
22 with paragraph (1) at least 15 days prior to the deadline to file the
23 application described in Section 1603, the affected party or his or
24 her agent may file an application within 60 days of the date of
25 mailing printed on the tax bill or the postmark thereof, whichever
26 is later, along with an affidavit declaring under penalty of perjury
27 that the notice was not timely received.

28 (B) Notwithstanding any other provision of this subdivision, an
29 application for reduction in a supplemental assessment may be
30 filed within 12 months following the month in which the assessee
31 is notified of that assessment, if the affected party or his or her
32 agent and the assessor stipulate that there is an error in assessment
33 as the result of the exercise of the assessor's judgment in
34 determining the full cash value of the property and a written
35 stipulation as to the full cash value and the assessed value is filed
36 in accordance with Section 1607.

37 (d) The notice shall advise the assessee of both of the
38 following:

39 (1) The requirements, procedures, and deadlines with respect
40 to an application for the reduction of a base year value pursuant to

1 Section 80, or the reduction of an assessment pursuant to Section
2 1603.

3 (2) The criteria under Section 51 for the determination of
4 taxable value, and the requirement of Section 1602 that the
5 custodial officer of the local roll make the roll, or a copy thereof,
6 available for inspection by all interested parties during regular
7 office hours.

8 (e) The notice shall advise the assessee that if the supplemental
9 assessment is a negative amount the auditor shall make a refund of
10 a portion of taxes paid on assessments made on the current roll, or
11 the roll being prepared, or both.

12 (f) The notice shall be furnished by the assessor to the assessee
13 by regular United States mail directed to the assessee at the
14 assessee's latest address known to the assessor.

15 (g) The notice given by the assessor under this section shall be
16 on a form approved by the State Board of Equalization.

17 ~~SEC. 5.—~~

18 *SEC. 4.* Section 155 of the Revenue and Taxation Code is
19 amended to read:

20 155. The time fixed in this division for the performance of any
21 act by the assessor or county board may be extended by the board
22 or its executive director for not more than 30 days, or, in case of
23 public calamity, 40 days. If an extension of time is granted, the
24 executive director of the board shall give written notice thereof to
25 the county auditor, county tax collector, and the officer or county
26 board to whom the extension is granted. The executive director
27 shall inform the board at its next regular meeting of any action with
28 respect to extensions taken by him *or her*. There shall be the same
29 extension of time for any act of the board dependent on the act for
30 which time was extended.

31 ~~SEC. 6.—~~

32 *SEC. 5.* Section 194 of the Revenue and Taxation Code is
33 amended to read:

34 194. As used in this chapter:

35 (a) "Eligible county" means a county that meets both of the
36 following requirements:

37 (1) Has been proclaimed by the Governor to be in a state of
38 emergency.

39 (2) Has adopted an ordinance providing property tax relief for
40 disaster victims as provided in Section 170.

(b) “Eligible property” means real property and any manufactured home, including any new construction that was completed or any change in ownership that occurred prior to the date of the disaster that meets both of the following requirements:

(1) Is located in an eligible county.

(2) Has sustained substantial disaster damage and the disaster resulted in the issuance of a state of emergency proclamation by the Governor.

“Eligible property” does not include any real property or any manufactured home, whether or not it otherwise qualifies as eligible property, if that real property or manufactured home was purchased or otherwise acquired by a claimant for relief under this chapter after the last date on which the disaster occurred.

(c) “Fair market value” means “full cash value” or “fair market value” as defined in Section 110.

(d) “Next property tax installment payment date” means December 10 or April 10, whichever date occurs first after the last date on which the eligible property was damaged.

(e) “Property tax deferral claim” means a claim filed by the owner of eligible property in conjunction with, or in addition to, the filing of an application for reassessment of that property pursuant to Section 170, that enables the owner to defer payment of the next installment of taxes on property on the regular secured roll for the current fiscal year, as provided in Section 194.1 or to defer payment of taxes on property on the supplemental roll for the current fiscal year, as provided in Section 194.9.

(f) “Substantial disaster damage,” as to real property located in a county declared to be a disaster by the Governor, means, with respect to real property and any manufactured home that has received the homeowners’ exemption or is eligible for the exemption as of the most recent lien date, damage amounting to at least 10 percent of its fair market value or ten thousand dollars (\$10,000), whichever is less; and, with respect to other property, damage to the parcel of at least 20 percent of its fair market value immediately preceding the disaster causing the damage.

~~SEC. 7.—~~

SEC. 6. Section 218 of the Revenue and Taxation Code is amended to read:

218. The homeowners’ property tax exemption is in the amount of the assessed value of the dwelling specified in this

1 section, as authorized by subdivision (k) of Section 3 of Article
2 XIII of the Constitution. That exemption shall be in the amount of
3 seven thousand dollars (\$7,000) of the full value of the dwelling.

4 The exemption does not extend to property which is rented,
5 vacant, under construction on the lien date, or which is a vacation
6 or secondary home of the owner or owners, nor does it apply to
7 property on which an owner receives the veteran's exemption.

8 "Owner" includes a person purchasing the dwelling under a
9 contract of sale or who holds shares or membership in a
10 cooperative housing corporation, which holding is a requisite to
11 the exclusive right of occupancy of a dwelling. As used in this
12 section, "dwelling" shall include:

13 (a) A single-family dwelling occupied by an owner thereof as
14 his or her principal place of residence on the lien date.

15 (b) A multiple-dwelling unit occupied by an owner thereof on
16 the lien date as his or her principal place of residence.

17 (c) A condominium occupied by an owner thereof as his or her
18 principal place of residence on the lien date.

19 (d) Premises occupied by the owner of shares or a membership
20 interest in a cooperative housing corporation, as defined in
21 subdivision (i) of Section 61, as his or her principal place of
22 residence on the lien date. Each exemption allowed pursuant to this
23 subdivision shall be deducted from the total assessed valuation of
24 the cooperative housing corporation. The exemption shall be taken
25 into account in apportioning property taxes among owners of share
26 or membership interests in the cooperative housing corporations
27 so as to benefit those owners who qualify for the exemption.

28 "Dwelling" means a building, structure or other shelter
29 constituting a place of abode, whether real property or personal
30 property, and any land on which it may be situated. For purposes
31 of this section a two-dwelling unit shall be considered as two
32 separate single-family dwellings.

33 Any dwelling that qualified for an exemption under this section
34 prior to October 20, 1991, that was damaged or destroyed by fire
35 in a disaster, as declared by the Governor, occurring on or after
36 October 20, 1991, and before November 1, 1991, and that has not
37 changed ownership since October 20, 1991, shall not be
38 disqualified as a "dwelling" or be denied an exemption under this
39 section solely on the basis that the dwelling was temporarily
40 damaged or destroyed or was being reconstructed by the owner.

1 The exemption provided for in subdivision (k) of Section 3 of
2 Article XIII of the Constitution shall first be applied to the
3 building, structure or other shelter and the excess, if any, shall be
4 applied to any land on which it may be located.

5 ~~SEC. 8.—~~

6 *SEC. 7.* Section 401.9 of the Revenue and Taxation Code is
7 repealed.

8 ~~SEC. 9.—~~

9 *SEC. 8.* Section 423 of the Revenue and Taxation Code is
10 amended to read:

11 423. Except as provided in Sections 423.7 and 423.8, when
12 valuing enforceably restricted open-space land, other than land
13 used for the production of timber for commercial purposes, the
14 county assessor shall not consider sales data on lands, whether or
15 not enforceably restricted, but shall value these lands by the
16 capitalization of income method in the following manner:

17 (a) The annual income to be capitalized shall be determined as
18 follows:

19 (1) Where sufficient rental information is available the income
20 shall be the fair rent which can be imputed to the land being valued
21 based upon rent actually received for the land by the owner and
22 upon typical rentals received in the area for similar land in similar
23 use, where the owner pays the property tax. Any cash rent or its
24 equivalent considered in determining the fair rent of the land shall
25 be the amount for which comparable lands have been rented,
26 determined by average rents paid to owners as evidenced by
27 typical land leases in the area, giving recognition to the terms and
28 conditions of the leases and the uses permitted within the leases
29 and within the enforceable restrictions imposed.

30 (2) Where sufficient rental information is not available, the
31 income shall be that which the land being valued reasonably can
32 be expected to yield under prudent management and subject to
33 applicable provisions under which the land is enforceably
34 restricted. There shall be a rebuttable presumption that “prudent
35 management” does not include use of the land for a recreational
36 use, as defined in subdivision (n) of Section 51201 of the
37 Government Code, unless the land is actually devoted to that use.

38 (3) Notwithstanding any other provision herein, if the parties
39 to an instrument which enforceably restricts the land stipulate
40 therein an amount which constitutes the minimum annual income

per acre to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated.

For the purposes of this section, income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, which the land can be expected to yield to an owner-operator annually on the average from any use of the land permitted under the terms by which the land is enforceably restricted, including, but not limited to, that from the production of salt and from typical crops grown in the area during a typical rotation period, as evidenced by historic cropping patterns and agricultural commodities grown. When the land is planted to fruit-bearing or nut-bearing trees, vines, bushes, or perennial plants, the revenue shall not be less than the land would be expected to yield to an owner-operator from other typical crops grown in the area during a typical rotation period, as evidenced by historic cropping patterns and agricultural commodities grown. Proceeds from the sale of the land being valued shall not be included in the revenue from the land.

Expenditures shall be any outlay or average annual allocation of money or money's worth that has been charged against the revenue received during the period used in computing that revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the land, interest on funds invested in trees and vines valued as land as provided by Section 429, property taxes, corporation income taxes, or corporation franchise taxes based on income. When the income used is from operating the land being valued or from operating comparable land, amounts shall be excluded from the income to provide a fair return on capital investment in operating assets other than the land, to amortize depreciable property, and to fairly compensate the owner-operator for his operating and managing services.

(b) The capitalization rate to be used in valuing land pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component, to be determined by the board and announced no later than October 1 of the year preceding the assessment year, which is the arithmetic mean, rounded to the nearest $\frac{1}{4}$ percent, of the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board as of September 1, and the corresponding yield rates for those bonds, as most recently published by the Federal Reserve Board as of each September 1 immediately prior to each of the four immediately preceding assessment years.

(2) A risk component that shall be a percentage determined on the basis of the location and characteristics of the land, the crops to be grown thereon and the provisions of any lease or rental agreement to which the land is subject.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the land for the assessment year times the assessment ratio. The estimated total tax rate shall be the cumulative rates used to compute the state's reimbursement of local governments for revenues lost on account of homeowners' property tax exemptions in the tax rate area in which the enforceably restricted land is situated.

(4) A component for amortization of any investment in perennials over their estimated economic life when the total income from land and perennials other than timber exceeds the yield from other typical crops grown in the area.

(c) The value of the land shall be the quotient for the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b).

(d) Unless a party to an instrument which creates an enforceable restriction expressly prohibits such a valuation, the valuation resulting from the capitalization of income method described in this section shall not exceed the lesser of either the valuation that would have resulted by calculation under Section 110, or the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

In determining the 1975 base year value under Article XIII A of the California Constitution for any parcel for comparison, the county may charge a contractholder a fee limited to the reasonable costs of ~~such~~ the determination not to exceed twenty dollars (\$20) per parcel.

(e) If the parties to an instrument which creates an enforceable restriction expressly so provide therein, the assessor shall assess those improvements which contribute to the income of land in the manner provided herein. As used in this subdivision “improvements which contribute to the income of the land” shall include, but are not limited to, wells, pumps, pipelines, fences, and structures which are necessary or convenient to the use of the land within the enforceable restrictions imposed.

~~SEC. 10.~~

SEC. 9. Section 439.2 of the Revenue and Taxation Code is amended to read:

439.2. When valuing enforceably restricted historical property, the county assessor shall not consider sales data on similar property, whether or not enforceably restricted, and shall value that restricted historical property by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available, the income shall be the fair rent that can be imputed to the restricted historical property being valued based upon rent actually received for the property by the owner and upon typical rentals received in the area for similar property in similar use where the owner pays the property tax. When the restricted historical property being valued is actually encumbered by a lease, any cash rent or its equivalent considered in determining the fair rent of the property shall be the amount for which the property would be expected to rent were the rental payment to be renegotiated in the light of current conditions, including applicable provisions under which the property is enforceably restricted.

(2) Where sufficient rental information is not available, the income shall be that which the restricted historical property being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the property is enforceably restricted.

(3) If the parties to an instrument that enforceably restricts the property stipulate therein an amount that constitutes the minimum annual income to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated.

1 For purposes of this section, income shall be determined in
2 accordance with rules and regulations issued by the board and with
3 this section and shall be the difference between revenue and
4 expenditures. Revenue shall be the amount of money or money's
5 worth, including any cash rent or its equivalent, that the property
6 can be expected to yield to an owner-operator annually on the
7 average from any use of the property permitted under the terms by
8 which the property is enforceably restricted.

9 Expenditures shall be any outlay or average annual allocation
10 of money or money's worth that can be fairly charged against the
11 revenue expected to be received during the period used in
12 computing the revenue. Those expenditures to be charged against
13 revenue shall be only those which are ordinary and necessary in the
14 production and maintenance of the revenue for that period.
15 Expenditures shall not include depletion charges, debt retirement,
16 interest on funds invested in the property, property taxes,
17 corporation income taxes, or corporation franchise taxes based on
18 income.

19 (b) The capitalization rate to be used in valuing
20 owner-occupied single family dwellings pursuant to this article
21 shall not be derived from sales data and shall be the sum of the
22 following components:

23 (1) An interest component to be determined by the board and
24 announced no later than October 1 of the year preceding the
25 assessment year and that was the yield rate equal to the effective
26 rate on conventional mortgages as most recently published by the
27 Federal Housing Finance Board as of September 1, rounded to the
28 nearest one-fourth of 1 percent.

29 (2) A historical property risk component of 4 percent.

30 (3) A component for property taxes that shall be a percentage
31 equal to the estimated total tax rate applicable to the property for
32 the assessment year times the assessment ratio.

33 (4) A component for amortization of the improvements that
34 shall be a percentage equivalent to the reciprocal of the remaining
35 life.

36 (c) The capitalization rate to be used in valuing all other
37 restricted historical property pursuant to this article shall not be
38 derived from sales data and shall be the sum of the following
39 components:



(1) An interest component to be determined by the board and announced no later than October 1 of the year preceding the assessment year and that was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Housing Finance Board as of September 1, rounded to the nearest one-fourth of 1 percent.

(2) A historical property risk component of 2 percent.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.

(d) Unless a party to an instrument that creates an enforceable restriction expressly prohibits the valuation, the valuation resulting from the capitalization of income method described in this section shall not exceed the lesser of either the valuation that would have resulted by calculation under Section 110, or the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

(e) The value of the restricted historical property shall be the quotient of the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b) or (c).

(f) The ratio prescribed in Section 401 shall be applied to the value of the property determined in subdivision (d) to obtain its assessed value.

~~SEC. 11.~~

SEC. 10. Section 534 of the Revenue and Taxation Code is amended to read:

534. (a) Assessments made pursuant to Article 3 (commencing with Section 501) or this article shall be treated like, and taxed at the same rate applicable to, property regularly assessed on the roll on which it is entered, unless the assessment relates to a prior year and then the tax rate of the prior year shall be applied, except that the tax rate for years prior to the 1981–82 fiscal year shall be divided by four.

(b) No assessment described in subdivision (a) shall be effective for any purpose, including its review, equalization and

1 adjustment by the Board of Equalization, until the assessee has
2 been notified thereof personally or by United States mail at his or
3 her address as contained in the official records of the county
4 assessor. For purposes of Section 532, the assessment shall be
5 deemed made on the date on which it is entered on the roll pursuant
6 to Section 533, if the assessee is notified of the assessment within
7 60 days after the statute of limitations or the placing of the escape
8 assessment on the assessment roll. Otherwise the assessment shall
9 be deemed made only on the date the assessee is so notified.

10 (c) The notice given by the assessor pursuant to this section
11 shall include all of the following:

12 (1) The date the notice was mailed.

13 (2) Information regarding the assessee's right to an informal
14 review and the right to appeal the assessment, and except in a case
15 in which paragraph (3) applies, that the appeal shall be filed within
16 60 days of the date of mailing printed on the notice or the
17 postmarked date therefor, whichever is later. For the purposes of
18 equalization proceedings, the assessment shall be considered an
19 assessment made outside of the regular assessment period as
20 provided in Section 1605.

21 (3) For counties in which the board of supervisors has adopted
22 a resolution in accordance with subdivision (c) of Section 1605,
23 and the County of Los Angeles, the notice shall advise the assessee
24 of the right to appeal the assessment, and that the appeal shall be
25 filed within 60 days of the date of mailing printed on the tax bill
26 or the postmark therefor, whichever is later. For the purposes of
27 equalization proceedings, the assessment shall be considered an
28 assessment made outside of the regular assessment period as
29 provided in Section 1605.

30 (4) A description of the requirements, procedures, and
31 deadlines with respect to an application for the reduction of an
32 assessment pursuant to Section 1605.

33 (d) (1) The notice given by the assessor under this section shall
34 be on a form approved by the board.

35 (2) Giving of the notice required by Section 531.8 shall not
36 satisfy the requirements of this section.

37 ~~SEC. 12.~~—

38 *SEC. 11.* Section 1609.5 of the Revenue and Taxation Code is
39 amended to read:

1 1609.5. (a) Whenever an employee of the board is desired as
2 a witness before a county board in a hearing on an application for
3 reduction, a subpoena requiring his or her attendance may be
4 served by delivering a copy either to the employee personally or
5 to the executive director of the board at his or her office in
6 Sacramento.

7 (b) The party at whose request the subpoena is issued shall
8 reimburse the State Board of Equalization for the full cost incurred
9 in paying the employee his or her salary or other compensation and
10 traveling expenses as provided for in this section, for each day that
11 the employee is required to remain in attendance pursuant to the
12 subpoena. The amount of two hundred dollars (\$200) payable to
13 the State Board of Equalization, together with the subpoena, shall
14 be tendered to the person accepting the subpoena for each day that
15 the employee is required to remain in attendance pursuant to the
16 subpoena.

17 (c) If the actual expenses should later prove to be less than the
18 amount tendered, the excess of the amount tendered shall be
19 refunded by the board.

20 (d) If the actual expenses should later prove to be more than the
21 amount tendered, the difference shall be paid to the State Board of
22 Equalization by the party at whose request the subpoena is issued.

23 (e) The employee shall receive the salary or other
24 compensation to which he or she is normally entitled during the
25 time he or she travels to and from the place where the hearing is
26 conducted and while he or she is required to remain at that place
27 pursuant to ~~such~~ the subpoena. The employee shall also receive
28 usual and customary travel expenses and per diem.

29 (f) If the employee is subpoenaed at the request of the applicant
30 and the county board grants a reduction in the assessment, the
31 county board may reimburse the applicant in whole or in part for
32 the actual witness fees paid pursuant to this section.

33 (g) Any person who pays or offers to pay any money or other
34 form of consideration for the services of any employee of the board
35 required to appear as a witness, other than the compensation
36 provided in this section, is guilty of a misdemeanor, and any
37 employee who receives any such payment is guilty of a
38 misdemeanor.

39 ~~SEC. 13.~~—

1 *SEC. 12.* Section 1841 of the Revenue and Taxation Code is
2 amended to read:

3 1841. When the review, equalization, and adjustment are
4 completed, the executive director of the board shall transmit to the
5 auditor and the governing body of the taxing agency whose
6 assessment is questioned, and to the applicant a notice of the action
7 of the board with respect to the assessment. The notice is prima
8 facie evidence of the regularity of all proceedings of the board
9 resulting in the action which is the subject matter of the notice.
10 Upon receipt of the notice the auditor shall enter upon the local roll
11 any change in the assessment resulting from the action of the
12 board.

13 ~~SEC. 14.~~—

14 *SEC. 13.* Section 5098 of the Revenue and Taxation Code is
15 repealed.

16 ~~SEC. 15.~~—

17 *SEC. 14.* Section 5098.5 of the Revenue and Taxation Code
18 is repealed.

19 ~~SEC. 16.~~—

20 *SEC. 15.* Notwithstanding Section 2229 of the Revenue and
21 Taxation Code, no appropriation is made by this act and the state
22 shall not reimburse any local agency for any property tax revenues
23 lost by it pursuant to this act.

24 ~~SEC. 17.~~—

25 *SEC. 16.* Notwithstanding Section 17610 of the Government
26 Code, if the Commission on State Mandates determines that this
27 act contains costs mandated by the state, reimbursement to local
28 agencies and school districts for those costs shall be made pursuant
29 to Part 7 (commencing with Section 17500) of Division 4 of Title
30 2 of the Government Code. If the statewide cost of the claim for
31 reimbursement does not exceed one million dollars (\$1,000,000),
32 reimbursement shall be made from the State Mandates Claims
33 Fund.

